



General Assembly

February Session, 2002

Amendment

LCO No. **5640**

SB0042805640HR0

Offered by:

REP. COLLINS, 117th Dist.

REP. STRATTON, 17th Dist.

To: Subst. Senate Bill No. **428**

File No. 384

Cal. No. 497

(As Amended by Senate Amendment Schedules "A" and "B")

**"AN ACT CONCERNING MINOR REVISIONS TO THE
ENVIRONMENTAL PROTECTION STATUTES."**

1 Strike section 4 in its entirety and insert the following in lieu thereof:

2 "Sec. 4. Section 26-194 of the general statutes is repealed and the
3 following is substituted in lieu thereof (*Effective from passage*):

4 (a) The Commissioner of Agriculture may lease in the name of the
5 state, under such regulations as he may prescribe and for a period not
6 longer than ten years, all shellfish areas that have been conveyed to the
7 state or placed under state jurisdiction by the town of West Haven and
8 any undesignated grounds, within the exclusive jurisdiction of the
9 state, for the purpose of planting and cultivating shellfish. The
10 authority herein conferred shall include the Cornell Reef, Portchester,
11 Great Captain's Island, Field Point and Greenwich Point natural beds
12 as located and described in section 3295 of the general statutes,

13 revision of 1918. Any person desiring to lease grounds for such
14 purpose shall make application in writing to the commissioner and all
15 grounds leased by authority of the provisions of this section shall be
16 leased to the highest responsible bidder, for a minimum fee of two
17 dollars per acre. Such lease or lease renewal shall require the lessee to
18 make a good faith effort to cultivate and harvest shellfish from the
19 leased area. Such lease or lease renewal shall prohibit the lessee from
20 entering into a contract with another person whereby the lessee agrees
21 not to cultivate and harvest shellfish for any period of time. No lessee
22 may enter into negotiations or an agreement with a third party
23 concerning said lease unless the Department of Agriculture and the
24 Attorney General are parties to such negotiations and agreement and
25 have approved of such agreement. For purposes of this section, "lease"
26 shall include, but not be limited to, those leases between the
27 Department of Agriculture and shellfish franchises. The form of such
28 application and lease shall be approved by the Attorney General, and
29 all such leases shall be recorded in the records of the commissioner. No
30 lease shall be granted to a resident of a state which does not lease
31 shellfish grounds to residents of this state, except that any nonresident
32 who was granted a lease on or before October 1, 1985, may, upon the
33 expiration of such lease, apply for a renewal or further lease as
34 provided in this section. The commissioner shall grant any such lease
35 to nonresidents upon the same terms and conditions as to residents of
36 this state. Any lessee or holder of oyster ground, on the expiration of
37 any lease thereof which has been or which may be granted, shall, upon
38 application to the commissioner, have the preference in the reletting of
39 such ground for a like term to that granted in the original lease, unless
40 such applicant, at the time for granting such application, is in arrears
41 for rent on the original lease of such ground. Such application for such
42 renewal or further lease shall be granted without notice or
43 advertisement of the pendency thereof; provided no renewal or further
44 lease of such ground shall be granted when the commissioner, for
45 cause, ceases to lease such ground for oyster culture and the provisions
46 of subsection (b) of this section are made part of any such renewal. All
47 assignments or transfers of leases shall be subject to the approval of the

48 commissioner and shall be recorded in his records. Any person who
49 interferes with, annoys or molests another in the enjoyment of any
50 lease authorized by the provisions of this section shall be subject to the
51 penalties provided in section 26-237. The provisions of sections 26-212,
52 26-215 and 26-232 shall not apply to any shellfish grounds leased
53 pursuant to the provisions of this section.

54 (b) On and after June 1, 2002, any new lease or renewal of a lease
55 issued by the commissioner, pursuant to subsection (a) of this section,
56 shall be subject to the following additional provisions: (1) If the siting
57 council approves a permit for a utility line or other public use structure
58 that will cross a leased area, that portion of the leased area to be
59 affected by such utility line or other public use structure shall revert to
60 the state and the Commissioner of Agriculture shall notify the lessee of
61 such reversion and the effective date of such reversion; (2) the
62 permittee of such utility line or public use structure shall be
63 responsible to pay a lease fee to the commissioner for any such portion
64 of the leased area that reverts to the state pursuant to subdivision (1) of
65 this subsection and the former lessee of such area shall not be
66 responsible for payment of any lease fee for such reverted area; (3) the
67 holder of any lease described in subdivision (1) of this subsection shall
68 have nine months from the date of notice of such reversion to remove
69 or relocate any shellfish from those areas scheduled to revert to the
70 state; (4) any costs incurred by a lessee pursuant to subdivision (3) of
71 this subsection shall be reimbursed by the utility line or public use
72 structure permittee; (5) the commissioner shall make a reasonable
73 effort to enter into new lease agreements for new grounds with any
74 lessee who elects to relocate shellfish pursuant to subdivision (3) of
75 this subsection; (6) the commissioner shall assess upon the permittee of
76 a utility line or public use structure that crosses such reverted grounds
77 a one-time offset fee, the proceeds of which shall be sufficient to offset:
78 (A) Any costs associated with the repair and restoration of shellfish
79 beds that adjoin such reverted grounds and sustained damage as a
80 result of the construction or installation of such utility line or public
81 use structure; and (B) all costs associated with the survey and

82 establishment of that portion of the leased grounds that revert to the
83 state. Nothing in this subsection shall be construed to prohibit the state
84 or a lessee from instituting legal action to recover damages from any
85 such permittee of a utility line or public use structure that crosses any
86 shellfish area or leased grounds for those damages incurred by the
87 state or lessee which are related to the installation, construction or
88 presence of such line or structure.

89 (c) The commissioner shall assess on the permittee of any utility line
90 or public use structure that crosses any shellfish area, leased grounds
91 or grounds of Long Island Sound within the jurisdiction of the state an
92 annual host payment fee of no less than twenty-five cents per linear
93 foot for the entire length of such line or structure within the
94 jurisdiction of the state, the proceeds of which shall be used for the
95 restoration and seeding of shellfish beds in the state including, but not
96 limited to, grants for the restoration and seeding of shellfish beds in
97 the state. The commissioner, in accordance with chapter 54, may issue
98 regulations concerning the requirements and application procedures
99 for such grants.

100 [(b)] (d) The commissioner may designate an agent within the
101 department to exercise the authority of said commissioner under this
102 section."